

REMARKS/ARGUMENTS:

This paper is herewith filed in response to the Examiner's Office Action mailed on November 14, 2006 for the above-captioned U.S. Patent Application. The office action objects to the specification, and to claims 1, 9, 12-14, 18-20, 23 and 24; rejects claims 1-3, 4-6, 9-10 and 27-29; and allows claims 18-26. The applicants thank the Examiner for the allowance.

More specifically, the Examiner has objected to claims 1, 9, 12-14, 18-20, 23 and 24 because of informalities cited, has rejected claim 27 under 35 USC 101; has rejected claim 27 under 35 USC 112, first paragraph, as failing to comply with the written description requirement; has rejected claims 1-2, 4-6, 9-12, 14-17, and 28-29, under 35 USC 102(a) as being anticipated by Nieczyporowicz (PG PUB 2002/0097703); has rejected claims 3 under 35 USC 103(a) as being unpatentable over Nieczyporowicz in view of Jones (US5,696,789); has rejected claims 7 and 8 under 35 USC 103(a) as being unpatentable over Nieczyporowicz in view of Henry (PG PUB 2003/0154223); and has rejected claim 27 under 35 USC 103(a) as being unpatentable over Nieczyporowicz in view of Callaway (US6,922,432). The rejections are respectfully addressed below.

The attorney docket number listed at page 1 line 5 of the written description corresponds to U.S. Patent Ser. No. 10/037422, as evidenced by the transmittal letter for that application, printed from the USPTO PAIR website and attached hereto. The first page of that transmittal letter bears both the attorney docket number and the PTO serial number label. Application Ser. No. 10/037,422 has now issued as U.S. Patent No. 7,099,372. The written description is amended at page 1 to reflect the proper serial number, filing date, and issued patent number for that attorney docket number.

Claims 1, 9, 14, 18, and 28, have been amended to address the informalities noted by the Examiner. Note that SF in claims 12-13 and M in claims 19-20 are now clear, though not defined as the Examiner suggested. The objection to claims 1, 9, 12-14, 18-20, 23, 24 and 28 is seen as overcome. No new matter is added.

With regards to the rejection of claim 27 under 35 USC 101, the adjective "computing" is added to modify "machine," in order to more closely track the Examiner's suggested

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“Interim Guidelines”. Respecting the rejection of claim 27 under 35 USC 112, first paragraph, the specification has been amended to include the language of claim 27. The rejections of claim 27 under 35 USC 101 and 35 USC 112 should be withdrawn.

With regard to the rejected claims 1-2, 4-6, 9-12, 14-17 and 28-29 under 35 USC 102(a) as anticipated by Nieczyrowicz:

35 U.S.C. §102(a) states the following:

A person shall be entitled to a patent unless —

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.

According to the MPEP 715(I):

Affidavits or declarations under 37 **CFR 1.131** may be used, for example:
(A) To antedate a reference or activity that qualifies as prior art under 35 U.S.C. 102(a) and not under 35 U.S.C. 102(b), e.g., where the prior art date under 35 U.S.C. 102(a) of the patent, the publication or activity used to reject the claim(s) is less than 1 year prior to applicant’s or patent owner’s effective filing date.

Nieczyrowicz was published on 25 July 2002, which is the critical date. Attached hereto please find a declaration under 35 USC 1.131, and Exhibits A and B incorporated into that Declaration. Exhibit A is a draft patent application dated 21 August 2001, well prior to the critical date. Exhibit B shows the draft of Exhibit A was sent to the inventors.

Each and every claim in the application filed on June 30, 2003 appears identical to the claims recited in the 21 August 2001 draft (Exhibit A). Apart from the header at the top of page 1 of Exhibit A, the text appears identical to that of the filed application. Exhibit A is therefore both evidence of conception and a constructive reduction to practice. Because constructive reduction to practice is shown prior to the critical date of 25 July 2002, Nieczyrowicz is not prior art against this application. All rejections rely on Nieczyrowicz, and therefore all rejections under 35 USC 102 and/or 103 are seen as overcome.


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While not required, the undersigned now explains the delay between August 21, 2001 and filing of this application. Exhibit C is a copy of an email received on 12 January 2002 by the patent firm representing the applicants, requesting that the firm "Freeze" all pending patent activities. Exhibit D is a letter dated 18 June 2003 and received by the representing patent firm indicating approval of the application. Exhibit D refers to the Inventors' signed declaration as being attached, for filing with the present application. Note that Exhibit C is from PWC (Prime Wave Corp.), and Exhibit D is from L-3 Communication Systems West (CS-W). Responsibility for this application was transferred between the date of Exhibit A and the filing of this application from PWC to CS-W. In the interim, all the representing firms' patent activities for PWC were held in abeyance following receipt of Exhibit C. Both PWC and CS-W are/were corporate sub-divisions of the same parent L-3 Communication Corporation.

The undersigned attests that Exhibits C and D are true copies, with only non-relevant subject matter redacted.

In view of the current amendments and remarks above, all claims are now seen to patentably distinguish over the cited art, alone or in any combination. The Applicants respectfully requests that the Examiner pass pending claims 1-29 to issue. The undersigned representative welcomes the opportunity to resolve any matters that may remain, formal or otherwise, via teleconference at the Examiner's discretion.

Respectfully submitted:


Jerry Stanton
Reg. No.: 46,008

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Date

Customer No.: 29683
HARRINGTON & SMITH, PC
4 Research Drive
Shelton, CT 06484-6212
Phone: (203) 925-9400
Facsimile: (203) 944-0245
Email: gstanton@hspatent.com

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2-14-07
Date

Ann Okrentowich
Name of Person Making Deposit